

SECOND MODIFICATION TO THE ORIGINALLY PROPOSED TEXT ARE INDICATED IN ITALICS

§ 2030. Prosecutor Participation.

(a) Hearings in Which Prosecutors May Participate.

(1) General. Except as otherwise provided in this section, the ~~Chairman~~ Chairperson or Executive Officer may permit a representative of the office which prosecuted a prisoner or parolee to participate in any board hearing when the prisoner or parolee is represented by an attorney.

(2) Extended Term Hearings. A representative of the Attorney General or the district attorney of the county from which the prisoner was committed may participate in any extended term hearing for that prisoner.

(3) Parole Consideration and Rescission Hearings for Life Prisoners. A representative of the district attorney of the county from which a life prisoner was committed may participate in any parole consideration or rescission hearing for that prisoner. If the Attorney General prosecuted the case for the county, or if the district attorney cannot appear because of a conflict, the Attorney General may appear and participate in the hearing for the district attorney.

(b) Notification Requirements. Notice that a hearing will be held shall be given to the prosecutor at least 30 days before the hearing. If the prosecutor wishes to participate in the hearing he shall, at least two weeks before the hearing, notify the institution hearing coordinator that a representative will attend. ~~The prisoner's attorney shall be notified that a prosecutor will attend.~~

(c) Prehearing Procedures. The prosecutor may review the prisoner's central file and submit any relevant documents including the Appellant's and Respondent's Statements of the Case and Statements of Facts filed in any appeal that may have been taken from the judgment. Any information which is not already available in the central file shall be submitted in writing to department staff not later than ten days before the hearing. Failure to submit new information as provided in this section may result in exclusion of the information at the hearing. Documents authored by other persons other than the prosecutor, that bear on the question of a prisoner's suitability for parole, shall not be subject to the time constraints of this section.

As soon as administratively feasible ~~department staff~~ C&PR shall forward to the prisoner or his attorney copies of any documents submitted by the prosecutor. ~~Department staff~~ The C&PR shall forward to the prosecutor copies of all documents provided to and submitted by the prisoner or his attorney.

(d) Hearing Procedures.

(1) Procedures. The presiding hearing officer shall specify the hearing procedures and order in which testimony will be taken. The hearing officer shall ensure throughout the hearing that unnecessary, irrelevant or cumulative oral testimony and statements are excluded.

(2) Role of the Prosecutor. The role of the prosecutor is to comment on the facts of the case and present an opinion about the appropriate disposition. In making comments, supporting documentation in the file should be cited. The prosecutor may be permitted

to ask clarifying questions of the hearing panel, but may not render legal advice.

NOTE: Authority cited: Sections 3041 and 3052, Penal Code. Reference: Sections 170.2 and 3041.7, Penal Code.

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§ 2247. Disclosure.

A prisoner is entitled to review nonconfidential documents in the department central file. A prisoner is responsible for complying with department procedures for review of the documents and for making his request sufficiently early to permit his review of the documents at least ~~10 to 30~~ ten days before the week of the hearing. A prisoner shall have the opportunity to enter a written response to any material in the file. The time constraints in this section shall not prohibit a hearing panel from considering documents authored by a judge, victim, witness or other person which bear on the question of a prisoner's suitability for parole, unless the documents contain new information which if presented would cause undue prejudice to the prisoner.

A prisoner dissatisfied with the disclosure may appeal pursuant to department procedures. (See Title 15, California ~~Administrative~~ Code of Regulations, ~~Ssections 3003~~ 3084.1 through 3084.7.)

A prisoner has the right to be present at the hearing, to speak on his own behalf, and to ask and answer questions. A prisoner refusing to attend the hearing shall be advised that a decision may be made without his presence. No panel shall consider information not available to the prisoner unless the information is designated confidential under § 2235.

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§ 2249. Prisoner Presentation of Documents.

A prisoner shall have the right to present relevant documents to the hearing panel. The documents should be brief, pertinent, and clearly written. They may cover any relevant matters such as mitigating circumstances, disputed facts, or release planning. A copy of the documents may be placed in the prisoner's central file.

~~Any documents which are not already available in the central file~~Documents authored by the prisoner or his representative shall be submitted to department staff not later than ten days before the hearing. The failure of the prisoner or his representative to submit documents in a timely manner may result in exclusion of the information at the hearing. Documents authored by other persons that bear on the question of a prisoner's suitability for parole, including release planning and employment offers, shall not be subject to the time constraints of this section.

NOTE: Authority cited: Sections 3052 and 5076.2, Penal Code. Reference: Section 3041.5, Penal Code.

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§ 2270. Subsequent Parole Hearing.

(a) General. At this hearing each prisoner who was previously denied parole shall be reconsidered for parole in the same manner as at the initial parole hearing. The hearing panel shall consider the same information considered at the initial parole hearing and any information developed since the last hearing (Sections 2281-2291).

(b) Panel. This hearing is conducted by a panel of three, at least two of whom shall be commissioners. At least one person on the new panel shall have been present at the last parole consideration hearing unless it is not feasible to do so.

(c) Scheduling. This hearing shall be scheduled as provided in Penal Code Section 3041.5.

(d) Multiple Year Denials. In cases in which the panel may deny a subsequent parole hearing for more than one year, it shall utilize the criteria specified in sections 2281 or 2402 as applicable. It shall make specific written findings stating the bases for the decision to defer the subsequent suitability hearing for two, three, four, or five years. If the board defers a hearing for five years, the prisoner's central file shall be reviewed by a deputy commissioner within three years, at which time the deputy commissioner may direct that a hearing be held within one year if the inmate has been disciplinary free and programming in accordance with board direction since the last hearing. The board shall notify the prisoner in writing of the deputy commissioner's decision.

(e) Prisoner Hearing Rights. The prisoner shall have the rights specified in Sections 2245-2256. Notice of the hearing shall be given as soon as possible, but no later than ~~7~~ 30 days before the hearing. The record of the hearing shall be a verbatim transcript.

(f) Prisoner Post Hearing Rights. The prisoner shall have the rights specified in Section 2268. Notice of the hearing shall be given as soon as possible, but no later than 7 days before the hearing. The record of the hearing shall be a verbatim transcript.

Note: Authority cited: Sections 3052 and 5076.2, Penal Code. Reference: Sections 3041, 3041.5, 3041.7, 3042, 5075, and 5076.1, Penal Code.